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September 17, 1999

Magalie Roman Salas, Esq.  
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445 Twelfth Street, SW - Room A325  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY


Re: WT\_Docket\_No. 97-207

Dear Ms. Salas:

Herewith transmitted, on behalf of United States Cellular Corporation, are an original and nine copies of its "Comments" in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with this office.

Sincerely,

  
Peter M. Connolly

Enclosures

cc(w/encl.): David Siehl  
FCC - Policy Division

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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

|                       |   |                      |
|-----------------------|---|----------------------|
| In the Matter of      | ) |                      |
|                       | ) |                      |
| Calling Party Pays    | ) | WT Docket No. 97-207 |
| Service Offering In   | ) |                      |
| The Commercial Mobile | ) |                      |
| Radio Services        | ) |                      |

COMMENTS of UNITED STATES  
CELLULAR CORPORATION

United States Cellular Corporation ("USCC") hereby files its Comments on the Declaratory Ruling and Notice of Proposed Rulemaking in the above-captioned docket.<sup>1</sup> USCC, through subsidiaries, operate cellular systems in over 140 markets, serving over two and a half million customers. Accordingly, USCC has a large stake in any FCC action concerning the means by which cellular carriers are compensated for their services. USCC believes that the FCC should now act to foster "calling party pays" ("CPP") as an option for cellular carriers and their customers.

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<sup>1</sup> In the Matter of Calling Party Pays Service Offering in the Commercial Mobile Radio Services, Declaratory Ruling and Notice of Proposed Rulemaking, WT Docket No. 97-207, FCC 99-137 released July 7, 1999 ("NPRM").

**I. Calling Party Pays Will Be Essential If CMRS Is Ever To Be Real Competition For Wireless Service.**

USCC believes that the NPRM does a good job of summarizing the issues before the FCC in implementing CPP on a national basis. However, what the NPRM does not do is discuss in detail the underlying reasons why it remains important for the FCC to eliminate the regulatory barriers to CPP.

As was noted in the Notice Of Inquiry in this docket<sup>2</sup> (§10), it is estimated that approximately 80% of wireless traffic originates with wireless rather than landline customers. USCC's experience remains consistent with this estimate.

This disproportion is a result of the fact that relatively few people usually have access to another person's wireless telephone number. There are still no cellular directory assistance operators and no cellular telephone books.<sup>3</sup> Thus, it is virtually impossible

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<sup>2</sup> Calling Party Pays Option in the Commercial Mobile Radio Services, 12 FCC Rcd 17693 (1997).

<sup>3</sup> We would also point out that one crucial aspect of achieving competitive equality between LECs and wireless carriers in the context of CPP will be equality of treatment in the publishing of telephone numbers. At present, LECs charge wireless carriers for the inclusion of wireless telephone numbers in telephone directories while they charge their own customers for not publishing their numbers. A fair and equitable system must be created under which all numbers, whether wireline or wireless, may be included in easily accessible local telephone directories if  
(continued...)

to get in touch with someone via his or her cellular telephone without knowing the telephone number.

What this means is that despite its undoubted growth, cellular remains, in some sense, a specialized service and not a real competitor for wireline service, which, unlike cellular, provides directory assistance to those needing help with the numbers they wish to call.

In USCC's view, true wireline/wireless competition will only come into being when cellular customers can be reached as easily on their cellular telephones as on their wireline phones, which will only occur when wireless customers can gain a greater measure of control than they now have over the costs of incoming calls. And USCC believes that the widespread availability of the CPP option will be an important step toward the achievement of that goal.

Drawing on lessons learned from USCC's provision of cellular service, we believe CPP would serve the public interest for the following reasons.

At present, wireless customers generally do not give out their wireless numbers because they are billed for inbound as well as

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<sup>3</sup>(...continued)

wireless customers wish them to be included as presumably they will if a CPP option is available. Any charges to wireless carriers for the inclusion of their members should be limited to the reasonable costs incurred by the LECs for such inclusion.

outbound calls. Since customers have no control over the costs they incur from incoming calls, they control those costs by ensuring there will be very few incoming calls. This problem obviously diminishes the value of a cellular telephone to the customer. In USCC's view, CMRS services will not be truly competitive with wireline service until CMRS customers receive roughly the same number of calls that they make. That will not happen without CPP.<sup>4</sup>

In USCC's experience, about one-third of the customers who drop cellular service report that they found they had little or no "need" for the service. No one drops landline service for that reason. Those customers find that on the occasions they might otherwise need to make a call on their cellular telephones, they can find a wireline alternative, however inconvenient. However, if CPP were instituted customers would, we believe, come to value their cellular or PCS service as much as they now rely upon their landline telephones because they would have the freedom to use

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<sup>4</sup> USCC is aware that wireless carriers are experimenting with other approaches, such as "first inbound minute free" and large "buckets" of minutes at low airtime rates which are intended, in part, to accomplish the same purposes as CPP, namely facilitating "inbound" calling. However, USCC believes that CPP will still be essential to achieving wireless/wireline competition, as will the inclusion of wireless numbers in directories and directory assistance.

wireless as necessary, rather than needing to limit incoming calls owing to cost constraints.

Also, given the confusing proliferation of telephone numbers for individuals which has occurred in the last decade, clearly one of the most important consumer services for individuals in the future will be variations of "one number" services, which will facilitate the use of one number for calls to be routed to a customer's home, office, or wireless phone or to his or her pager or to voice mail, at the customer's option. However, as long as wireless customers must pay for all incoming calls they will, in many cases, be financially precluded from choosing this option as it would facilitate a flood of unwanted incoming calls.

USCC believes that CPP would work in precisely the way its supporters predict. Preliminary results in USCC markets indicate that where USCC has offered caller I.D. and the first free inbound minute to its customers its ratio of "inbound" to "outbound" minutes has moved from 2:5 to 4:5. We believe CPP will, under the right conditions, serve to equalize this ratio and thus serve the public interest.

## **II. CPP Should Be Offered Under Conditions Which Will Serve The Public Interest**

USCC considers it essential that the FCC implement CPP on a

national basis and agrees with the FCC's conclusion that it has the authority to implement uniform nationwide notification and other standards under Sections 201 (b) and 332 (c)(3) of the Communications Act. State regulation of CPP, which is essentially what exists now, creates insoluble practical problems which have prevented and will continue to prevent the large scale implementation of CPP. Rather than deal with fifty conflicting state standards, which may often affect calls that cross state lines, wireless carriers will usually simply not offer the CPP option. National standards are thus an indispensable pre-requisite to CPP becoming a real wireless customer option.

Within the context of that approach, USCC offers the following comments on the three CPP subjects which the FCC has stated "need to be addressed," namely notification requirements, billing and collection and PBX call "leakage." (NPRM, ¶26).

**A. USCC Supports A Uniform Notification Announcement**

USCC understands that CPP will represent a considerable change for consumers calling someone who uses a wireless telephone. Accordingly, we agree with the FCC that at least initially callers making CPP calls should be advised by the wireless carrier whose customer they are calling that (a) they will be charged for the call and (b) they will have an opportunity to terminate the call.

They should also be advised of the name of the CMRS provider and of its per minute rate. (NPRM ¶42).

Such a requirement would obviously be helpful to those making calls to "CPP" customers. And such a notice requirement might also serve to stabilize the prices for such calls at reasonable levels, as excessive and/or frequently changing prices would result in bad publicity for the responsible wireless carrier and would be difficult to administer.

USCC is opposed to having dedicated area codes or NXX codes for CPP customers (NPRM, ¶46). Such a course would be unacceptable because it would require a large number of telephone number changes and cause other customer service problems for carriers, thus placing CPP in the "more trouble than it is worth" category. A customer should not have to change his or her telephone number to have this capability.

The CPP "platform" should have the ability to put a "flag" on a wireless CPP number, which would direct incoming calls to the notification recording. Also, the CPP platform should have the capability of allowing CPP customers to pay the airtime charges for incoming calls from certain numbers, i.e. those of family members, friends, and customers.

That type of technical solution would be preferable to the one floated by the FCC at the conclusion of the NPRM, at ¶69-73, namely



that of building CPP costs into the reciprocal compensation paid by wireline to wireless carriers. This would be undesirable because it would result in higher charges for all incoming calls, and not merely those who a customer wished to receive on a CPP basis. It would also place the burden of increased rates on wireline carriers, who would not benefit from such rates, a sure formula for endless, highly undesirable legal warfare, resembling the ILEC-IXC battles, between CMRS and wireline carriers. The technical solution outlined above, if achievable, would be much preferable.

**B. LECs Should Be Required To Provide Billing And Collection Services To Wireless Carriers On A Reasonable And Non-Discriminatory Basis \_\_\_\_\_**

A reasonable and fair means of providing billing and collection services is indispensable to the provision of CPP. The NPRM (§55) asks whether LEC billing and collection is needed for CPP to be a viable service option nationwide. Based on present information, USCC believes that it is.

USCC's experience and observation suggest that no other approach will ensure that the revenues for CPP calls are actually collected. The NPRM (§50-51) asks whether, as a legal matter, if CPP callers are advised of their obligations at the time they place a call, they will become parties to an "implied in fact contract" with the wireless provider. USCC agrees with the FCC that adequate

notice to such callers may well create such a "contract." However, we do not share the FCC's evident confidence that the existence of an implied contract will cause the majority of callers to CPP numbers actually to pay the bills rendered by wireless carriers for such calls. A contract may exist and LECs may be required to supply the necessary billing information to cellular carriers at reasonable rates. It still does not mean that someone who placed a single call to a wireless customer, for example, is going to pay a bill for that call.

We believe that many persons who place calls to wireless CPP customers will simply ignore wireless bills for small amounts sent by carriers with whom they have no other relationship, and who have no power to cut off their service. We further maintain that it will not be worthwhile for wireless carriers to attempt to collect such small amounts through either individual lawsuits or collections procedures and thus that losses from such calls will be unrecoverable.

Generally speaking, people either pay telecommunications bills because they are customers of a telecommunications provider and wish to continue to receive its service or because they are

required to pay in cash or by credit card at the time the call is made.<sup>5</sup>

CPP would introduce an entirely new concept, namely local service "purchased" by a "casual" customer as a consequence of an "implied in fact" promise to pay. We do not believe this will work on a large scale, any more than it would work if people could place pay telephone calls by telling the operator they would pay for them later.

Some people are scrupulously honest and would pay such wireless bills. But not enough "CPP" bills would be paid to make this a rational basis upon which to proceed.

What will work in our view would be for CPP charges to be included as part of the bills rendered by the carrier of the calling party. Then customers would have the same incentive to pay those charges as they have to pay the rest of their bills. The billing carriers could then remit the CPP charges to wireless carriers.

USCC understands that LECs for instance would not view the addition of such charges to their bills as a positive development. Accordingly, we would support a requirement that such carriers may

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<sup>5</sup> USCC believes, however, that CPP payment by credit card, especially coupled with a lengthy recorded "notification," would be excessively cumbersome and would prevent most CPP calls from being made at all, as well as generating considerable consumer resentment.

require wireless carriers to pay their reasonable costs for billing and collecting such charges.

The specific nature of such reimbursements would remain to be worked out. However, the central point remains that CPP will not work unless CPP callers are billed by a carrier whose bills they will pay.

**C. Wireless Carriers Should Not Be Held  
Responsible For Signal "Leakage" Problems**

The NPRM (§46) notes that one reason for requiring CPP customers to have specially designated numbers is that otherwise PBX systems will be unable to block this category of "toll" calls and that PBX users might thus also incur "unrecoverable" losses.

We question the validity of this concern. In most office environments employees sometimes make personal toll and long distance calls, which then have to be "assigned" for the purpose of reimbursing the organization.

We do not see any difference between this common occurrence and what would occur with CPP calls. Such calls would be individually enumerated on the bills which PBX providers received from their carriers. It could then be ascertained who made the calls and the responsible employees could be charged appropriately.

If CPP is to become a reality, with all its undoubted public benefits, the FCC cannot burden wireless carriers with the responsibility for inadequate employee supervision by PBX users.

**Conclusion**

For the foregoing reasons the FCC should take steps to remove all impediments to wireless carriers having the option to utilize calling party pays on a national basis.

Respectfully submitted

**UNITED STATES CELLULAR CORPORATION**

By: \_\_\_\_\_

  
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Its Attorneys